

GENERAL REGULATIONS

SECTION 1-1 TITLE

1-101. These regulations shall hereinafter be known and may be cited as the Subdivision Regulations for Emporia and the Metropolitan Planning Area and shall hereinafter be referred to as "these regulations."

SECTION 1-2 PURPOSE

1-201.

a. Subdivision Regulations are the process through which raw land is converted into buildable sites for residential, commercial and industrial uses. The physical arrangement of these lots along with provisions for streets, alleys, utilities, schools, parks and other community facilities will in a large part determine the quality of life in the community and, therefore, is of public interest. Such regulations establish standards that insure that the growth of urban areas will reflect sound planning and will not be detrimental to the community.

b. These regulations are designed, intended and adopted for the following purposes:

1. To protect and provide for the public health, safety, and general welfare of Emporia and the surrounding Metropolitan Planning Area.
2. To implement the Comprehensive Plan for the City of Emporia and the Metropolitan Planning Area.
3. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land.
4. To protect and conserve the value and desirability of land and neighborhoods throughout the community.
5. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation and other public requirements and facilities necessary to protect and promote public health, safety and general welfare.
6. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions.
7. To insure proper legal descriptions, monumenting of land, and adequate and accurate platting and records of land subdivision.
8. To harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts.
9. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
10. To provide for and secure to the proper governmental agencies the actual construction of all such necessary on-site and off-site public improvements including the reservation or dedication of land for park and recreational purposes.
11. To reserve or dedicate land for open space to preserve natural areas for watercourses, drainage ways, woodland, rugged topography, wildlife habitat, and for water quality and quantity, and to protect land from soil erosion.
12. To coordinate the subdividing of land with applicable zoning regulations, various construction codes and other City and County regulations which also affect the development of the land.

SECTION 1-3 AUTHORITY

1-301. These Subdivision Regulations and minimum standards for land development are adopted by the Planning Commission and approved by the City and County Governing Bodies under powers conferred by K.S.A. 12-749 and Article 12, Section 5 of the Kansas Constitution.

SECTION 1-4 POLICY

1-401.

- a. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace nor unnecessarily subject existing development to such danger or peril. It is further intended that land shall not be subdivided until proper provision has been made for drainage, water and sewage.
- b. The existing and proposed public improvements shall conform to and be properly related to the features of the official Comprehensive Plan, and all other adopted plans for specific aspects of the community, and adopted capital programs and budgets.

SECTION 1-5 JURISDICTION

1-501. These regulations shall apply to all land located within the corporate limits of the City of Emporia, Kansas, and to all unincorporated land outside of but within the established Metropolitan Planning Area around the City of Emporia.

SECTION 1-6 APPLICABILITY

1-601. These regulations, unless exempted by Section 1-7 shall apply to any person desiring to do any of the following:

- a. Subdivide or further subdivide any lot, tract or parcel of land into two or more parts.
- b. Resubdivide any lot, tract or parcel of land that has previously been subdivided into two or more parts.
- c. Establish any street, alley, sidewalk, park or other property intended for public use or for the use of prospective or existing owners of lots, tracts or parcels of land fronting on or adjacent to such property.

The owner(s) of any land subject to these regulations subdividing said land in a manner previously cited shall cause to be prepared a subdivision plat in accordance with the provisions of these regulations. No building or zoning permit shall hereafter be issued for construction on any land that has not been subdivided in compliance with these regulations and all other applicable state laws and local laws in effect at the time of the subdivision of said land.

SECTION 1-7 EXEMPTIONS

1-701. The following specific transactions shall be exempt from compliance with the provisions of these regulations.

- a. Boundary adjustments between one or more contiguous lots, tracts, or parcels of land, which will not create any additional lots, tracts or parcels, shall not be subject to the subdivision platting, or replatting requirements of these regulations. However, such boundary line adjustments shall comply with the

requirements of these regulations.

b. A conveyance of land, or interest therein, for use as right-of-way by railroad or other public utilities subject to state or federal regulations where no new street or easement of access is created.

c. A conveyance made to correct a bearing or distance description in a previously recorded conveyance.

d. Any transfer by operation of law.

e. The subdividing of land used exclusively for cemetery purposes and accessory uses associated therewith.

f. Any lot, parcel or tract of land located within the area governed by these Subdivision Regulations which has been legally subdivided, resubdivided, platted or replatted prior to the effective date of these regulations. For purposes of these regulations, Alegally subdivided, resubdivided, platted or replatted@ shall include any certificate of survey submitted and recorded, as provided by these requirements, prior to the effective date of these regulations.

g. The division or further division of unincorporated land into lots or tracts each of which contain twenty (20) acres or more when subdivided only for agricultural use and when such division does not involve or result in the creation of new streets, easements of access, or other dedication.

h. The division of a lot, tract or parcel of land that existed prior to the effective date of these regulations and was not previously exempted under any previous subdivision regulations, where no more than one (1) additional lot, tract or parcel is created, provided, however, that the creation of said additional lot, tract or parcel shall comply with the provisions for lot splits set forth in Article 11 of these regulations. Any further division of the lot, tract or parcel, including any remainder parcel or tract, shall be platted in conformance with the requirements of these regulations.

i. The division of a platted lot used for industrial purposes only, as required by state law, provided each resulting lot has frontage on a public street.

SECTION 1-8 INTERPRETATIONS-CONFLICT

1-801.

a. Where the requirements of these regulations impose restrictions that differ from those imposed by any other provision of these regulations or any other statute, regulation, or other provision of law; the provision which imposes the higher or more restrictive standard shall apply.

b. The provisions of these regulations are not intended to abrogate any easement, covenant, or other private agreement.

c. A subdivision of the land which was not lawfully existing at the time of the adoption of these regulations shall not become or be made lawful solely by reason of the adoption of these regulations.

d. The provision of these regulations are additional limitations upon all other laws heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.

SECTION 1-9 VESTING OF DEVELOPMENT RIGHTS

1-901. In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following rules regarding the vesting of development rights

shall apply:

- a. The rights of landowners of properties platted or subdivided for residential development shall be protected for use of said land for the intended residential purposes for a period of five (5) years from the date upon which the plat for such property was first recorded with the Lyon County Register of Deeds. Provided, the division of land was legally done in conformance with the Emporia Subdivision Regulations in effect at the time of such recording.
- b. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot, and subsequent divisions of such tracts shall be in conformance with the subdivision regulations then in effect.
- c. Properties divided or platted for any use other than residential purposes shall not be permitted to develop or further develop except in conformance with these regulations and the Emporia-Lyon County Metropolitan Zoning Regulations. Persons who obtain a validly issued permit under the previous Emporia-Lyon County Metropolitan Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Emporia-Lyon County Metropolitan Zoning Regulations does not expire. Failure to begin substantial construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these regulations or the Emporia-Lyon County Metropolitan Zoning Regulations then in effect.

SECTION 1-10 APPROVALS NECESSARY FOR ACCEPTANCE OF SUBDIVISION PLATS

1-1001. All subdivision plats or re-plats of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated for public use, or for the use of purchasers or owners of lots fronting thereon, shall be submitted to the Emporia-Lyon County Metropolitan Area Planning Commission for its consideration and approval. The approved plat shall be submitted to the Governing Body of the City of Emporia for plats within the City for final plat approval and acceptance of dedications of streets, alleys, easements, and other public ways or sites. Plats outside the corporate city limits of Emporia, but within the Metropolitan Planning Area shall be submitted to the Board of Lyon County Commissioners for such final plat approval and acceptance of dedication of streets, alleys, easements and other public ways or sites.

SECTION 1-11 ACCRUED RIGHTS AND LIABILITIES SAVED

1101. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, corporation, or as waiving any right of the City of Emporia under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the City except as shall be expressly provided for in these regulations.

SECTION 1-12 SEVERABILITY

1-1201. If any section, subsection or provision of these regulations shall be

adjudged invalid or held unconstitutional, the same shall not affect the validity of these regulations as a whole or any part or provision thereof, other than the part so declared to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

SECTION 1-13 EFFECTIVE DATE

1-1301. These regulations shall be in force and effect from and after passage and publication in accordance with State law.